

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAYER2 COMMUNICATIONS INC,

No. C-13-02131 DMR

Plaintiff(s),

v.

**ORDER DENYING EX PARTE
DISCOVERY LETTERS [DOCKET NOS.
93, 94]**

FLEXERA SOFTWARE LLC,

Defendant(s).

On June 13, 2014, Plaintiff filed two sequential ex parte letters regarding certain of its discovery requests. *See* Docket Nos. 78, 79. The court denied these letters without prejudice and directed the parties to “meet and confer in person or by telephone and . . . file a joint discovery letter.” Docket No. 80. However, instead of filing a joint letter, Plaintiff and Defendant each filed an ex parte letter. [Docket No. 93, 94.]

Also pending before the court are the parties’ motions for summary judgment. *See* Docket Nos. 68, 70. Neither party has indicated in its briefs related to these motions that “it cannot present facts essential to justify its opposition” pursuant to Federal Rule of Civil Procedure 56(d). Nor do the discovery letters indicate that the disputed discovery is necessary for the determination of the motions.

Accordingly, both discovery letters are **denied without prejudice**. The parties are directed to meet and confer regarding the disputes raised in the discovery letters. If they are unable to

1 resolve their disputes without judicial intervention, the parties shall file a **joint** discovery letter by
2 **July 3, 2014 at 10 a.m.** A hearing on the joint letter, if any, will be held on **July 31, 2014**. Lead
3 counsel for the parties are ordered to appear at the hearing. Following the hearing, lead counsel
4 shall meet and confer in the courthouse regarding their discovery disputes and any remaining
5 disputes, and shall be prepared to devote the entire day, if necessary, to resolving the disputes.
6 Failure to follow this order may result in sanctions to either party or both.

7 IT IS SO ORDERED.

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9 Dated: June 24, 2014



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11 DONNA M. RYU
United States Magistrate Judge
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